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Laguna Niguel city council oppose SB 54

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Laguna Niguel city council oppose SB 54 (2017),

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CITY OF LAGUNA NIGUEL

AGENDA ITEM CITY COUNCIL

MARCH 21, 2017

TO: Honorable Mayor and Council Members

FROM: Daniel Fox, Assistant City Manager

SUBJECT: Opposition to Senate Bill SB 54 (De León) Law Enforcement: Sharing Data

SUMMARY: Senate Bill SB 54 (De León) would restrict local law enforcement agencies from collaborating and partnering with federal agencies in responding to requests for notification when a jail houses someone who might be subject of an immigration enforcement action. Laguna Niguel and other local agencies stand to lose federal funding should the proposed legislation pass. It is recommended that the City Council provide a letter in opposition to SB 54 (De León).

BACKGROUND/ANALYSIS

Senate Bill SB 54 (De León) would restrict local law enforcement agencies from collaborating and partnering with federal agencies in responding to requests for notification when a jail houses someone who might be the subject of an immigration enforcement action.

Council Members Laurie Davies and Fred Minagar have requested that this item be placed on the agenda. A draft letter in opposition to the proposed legislation has been prepared for consideration should the Council desire to take a position (Attachment A). A copy of the most current version of the proposed legislation is included in Attachment B.

While SB 54 is entitled “Law enforcement: sharing data”, it is essentially State sanctuary legislation. Local agencies stand to lose millions of dollars in federal funding should the federal administration impose economic sanctions on those agencies that take actions contrary to federal laws regarding this matter. Those federal funds are desperately needed to help fight crime, provide needed services, and help rebuild our failing infrastructure. Laguna Niguel stands to lose over \$2,065,300 in Federal Community Development Block Grant and Highway Administration funding should SB 54 pass. This does not include the potential future funding that may otherwise become available to local agencies from the federal administration transportation funding package currently under consideration.

SB 54 was introduced on December 5, 2016, was most recently amended on March 6, 2017 and passed in the Senate Appropriations Committee on March 13, 2017.

FISCAL IMPACT


Should SB 54 (De León) pass, the City of Laguna Niguel could lose over \$2,065,300 in Federal Community Development Block Grant and Federal Highway Administration funds.

RECOMMENDATION

That the City Council:

- a. Authorize the Mayor to send a letter opposing SB 54 (De León), as submitted or revised; and,
 - b. Authorize the Mayor to send additional letters in opposition related to SB 54 and other proposed legislation related to this subject.
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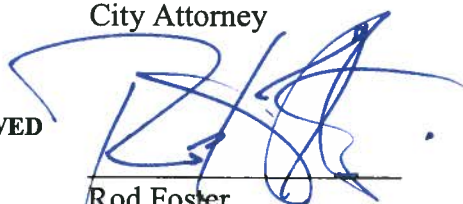
**SUBMITTED
BY:**


Daniel Fox
Assistant City Manager

**REVIEWED
BY:**


Terry Dixon
City Attorney

**REVIEWED
BY:**


Rod Foster
City Manager

Attachments:

- A. Draft Letter of Opposition
- B. SB 54 (De León)

ATTACHMENT A

March 21, 2017

Senator Kevin De León
State Capitol Room 205
Sacramento, CA 95814

RE: SB 54 (De León) - OPPOSE

Dear Senator De León:

The City of Laguna Niguel strongly opposes your proposed legislation SB 54 (De León) related to local law enforcement data sharing. SB 54 would restrict local law enforcement agencies from collaborating and partnering with federal agencies related to an immigration enforcement action. The TRUST Act (AB 4 passed in 2014) already governs how and when local law enforcement may detain a person subject to an immigration hold.

All local law enforcement officers and city elected officials take an oath to uphold and defend the State Constitution AND the Constitution of the United States. SB 54 creates conflict between the two for local law enforcement agencies to fulfill their duties to both the State and the federal government.

In addition, local agencies stand to lose millions of dollars in federal funding should the federal administration impose economic sanctions on those agencies that take actions contrary to federal laws regarding this matter. Those federal funds are desperately needed to help fight crime, provide needed services, and help rebuild our failing infrastructure. Laguna Niguel stands to lose over \$2,065,300 in Federal Community Development Block Grant and Highway Administration funding should SB 54 pass. This does not include the potential future funding that may otherwise become available to local agencies from the federal administration infrastructure and transportation funding package currently under consideration.

Thank you for considering the comments of our City and I encourage you to withdraw SB 54 (De León) from further consideration. Please feel free to contact me (949) 362-4315 with any questions you may have about our position on this issue.

Sincerely,

Jerry Slusiewicz
Mayor

Cc: Senator Patricia Bates, California's 36th Senate District
Assemblyman Bill Brough, 73rd District
Tony Cardenas, Orange County Division, League of California Cities
Heather Stratman, Association of California Cities – Orange County

ATTACHMENT B

AMENDED IN SENATE MARCH 6, 2017
AMENDED IN SENATE MARCH 1, 2017
AMENDED IN SENATE JANUARY 24, 2017

SENATE BILL

No. 54

Introduced by Senator De León

(Principal coauthors: Senators Atkins, Pan, and Wiener)

**(Principal coauthors: Assembly Members Bonta, Chiu, Cooper, Gomez,
Levine, and Reyes)**

December 5, 2016

An act to add Chapter 17.25 (commencing with Section 7284) to Division 7 of Title 1 of the Government Code, to repeal Section 11369 of the Health and Safety Code, and to add Sections 3058.10 and 3058.11 to the Penal Code, relating to law enforcement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as amended, De León. Law enforcement: sharing data.

Existing law provides that when there is reason to believe that a person arrested for a violation of specified controlled substance provisions may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters.

This bill would repeal those provisions.

Existing law provides that whenever an individual who is a victim of or witness to a hate crime, or who otherwise can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual

exclusively for any actual or suspected immigration violation or report or turn the individual over to federal immigration authorities.

This bill would, among other things, prohibit state and local law enforcement ~~agencies and agencies, including~~ school police and security ~~departments~~ *departments*, from using resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified. The bill would require, within 3 months after the effective date of the bill, the Attorney General, in consultation with *the* appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement to the fullest extent possible for use by those entities for those purposes. The bill would require all public schools, health facilities operated by the state or a political subdivision of the state, ~~courthouses, and shelters~~ *and courthouses* to implement the model policy, or an equivalent policy. The bill would state that all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy. The bill would require a law enforcement agency that chooses to participate in a joint law enforcement task force, as defined, to submit a report every 6 months to the Department of ~~Justice~~ *Justice, as specified*. The bill would require the Attorney General, within 14 months after the effective date of the bill, and twice a year thereafter, to report on the types and frequency of joint law enforcement task forces, and other information, as specified, and to post those reports on the Attorney General's Internet Web site. The bill would require the Board of Parole Hearings or the Department of Corrections and Rehabilitation, as applicable, to notify the Federal Bureau of Investigation of the scheduled release on parole or postrelease community supervision, or rerelease following a period of confinement pursuant to a parole revocation without a new commitment, of all persons confined to state prison serving a term for the conviction of a violent felony, and would authorize the sheriff to notify the Federal Bureau of Investigation of the scheduled release of a person confined to county jail for a misdemeanor offense who has a prior conviction for a violent felony, as specified.

~~The~~

This bill would state findings and declarations of the Legislature relating to these provisions.

By imposing additional duties on public schools, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 17.25 (commencing with Section 7284)
2 is added to Division 7 of Title 1 of the Government Code, to read:

3
4 CHAPTER 17.25. COOPERATION WITH FEDERAL IMMIGRATION
5 AUTHORITIES
6

7 7284. This chapter shall be known, and may be cited, as the
8 California Values Act.

9 7284.2. The Legislature finds and declares the following:

10 (a) Immigrants are valuable and essential members of the
11 California community. Almost one in three Californians is foreign
12 born and one in two children in California has at least one
13 immigrant parent.

14 (b) A relationship of trust between California's immigrant
15 community and state and local agencies is central to the public
16 safety of the people of California.

17 (c) This trust is threatened when state and local agencies are
18 entangled with federal immigration enforcement, with the result
19 that immigrant community members fear approaching police when
20 they are victims of, and witnesses to, crimes, seeking basic health
21 services, or attending school, to the detriment of public safety and
22 the well-being of all Californians.

23 (d) Entangling state and local agencies with federal immigration
24 enforcement programs diverts already limited resources and blurs
25 the lines of accountability between local, state, and federal
26 governments.

1 (e) State and local participation in federal immigration
2 enforcement programs also raises constitutional concerns, including
3 the prospect that California residents could be detained in violation
4 of the Fourth Amendment to the United States Constitution,
5 targeted on the basis of race or ethnicity in violation of the Equal
6 Protection Clause, or denied access to education based on
7 immigration status.

8 (f) This act seeks to ensure effective policing, to protect the
9 safety, well-being, and constitutional rights of the people of
10 California, and to direct the state's limited resources to matters of
11 greatest concern to state and local governments.

12 7284.4. For purposes of this chapter, the following terms have
13 the following meanings:

14 (a) "California law enforcement agency" means a state or local
15 law enforcement agency, including school police or security
16 departments.

17 (b) "Civil immigration warrant" means any warrant for a
18 violation of federal civil immigration law, and includes civil
19 immigration warrants entered in the National Crime Information
20 Center database.

21 (c) "Federal immigration authority" means any officer,
22 employee, or person otherwise paid by or acting as an agent of
23 United States Immigration and Customs Enforcement or United
24 States Customs and Border Protection, or any division thereof, or
25 any other officer, employee, or person otherwise paid by or acting
26 as an agent of the United States Department of Homeland Security
27 who is charged with immigration enforcement.

28 (d) "Health facility" includes health facilities as defined in
29 Section 1250 of the Health and Safety Code, clinics as defined in
30 Sections 1200 and 1200.1 of the Health and Safety Code, and
31 substance abuse treatment facilities.

32 (e) "Hold request," "notification request," "transfer request,"
33 and "local law enforcement agency" have the same meaning as
34 provided in Section 7283. Hold, notification, and transfer requests
35 include requests issued by United States Immigration and Customs
36 Enforcement or United States Customs and Border Protection as
37 well as any other federal immigration authorities.

38 (f) "Immigration enforcement" includes any and all efforts to
39 investigate, enforce, or assist in the investigation or enforcement
40 of any federal civil immigration law, and also includes any and all

1 efforts to investigate, enforce, or assist in the investigation or
2 enforcement of any federal criminal immigration law that penalizes
3 a person's presence in, entry, or reentry to, or employment in, the
4 United States, including, but not limited to, violations of Section
5 1253, 1324c, 1325, or 1326 of Title 8 of the United States Code.

6 (g) "Joint law enforcement task force" means a California law
7 enforcement agency collaborating, engaging, or partnering with a
8 federal law enforcement agency in investigating, interrogating,
9 detaining, detecting, or arresting persons for violations of federal
10 or state crimes.

11 (h) "Judicial warrant" means a warrant based on probable cause
12 and issued by a federal judge or a federal magistrate judge that
13 authorizes federal immigration authorities to take into custody the
14 person who is the subject of the warrant.

15 (i) "Public schools" means all public elementary and secondary
16 schools under the jurisdiction of local governing boards or a charter
17 school board, the California State University, and the California
18 Community Colleges.

19 (j) "School police and security departments" includes police
20 and security departments of the California State University, the
21 California Community Colleges, charter schools, county offices
22 of education, schools, and school districts.

23 7284.6. (a) California law enforcement agencies shall not do
24 any of the following:

25 (1) Use agency or department moneys, facilities, property,
26 equipment, or personnel to investigate, interrogate, detain, detect,
27 or arrest persons for immigration enforcement purposes, including,
28 but not limited to, any of the following:

29 (A) Inquiring into or collecting information about an individual's
30 immigration status, except as required to comply with Section
31 922(d)(5) of Title 18 of the United States Code.

32 (B) Detaining an individual on the basis of a hold request.

33 (C) Responding to requests for notification or transfer requests.

34 (D) Providing or responding to requests for nonpublicly
35 available personal information about an individual, including, but
36 not limited to, information about the person's release date, home
37 address, or work address for immigration enforcement purposes.

38 (E) Making arrests based on civil immigration warrants.

1 (F) Giving federal immigration authorities access to interview
2 individuals in agency or department custody for immigration
3 enforcement purposes.

4 (G) Assisting federal immigration authorities in the activities
5 described in Section 1357(a)(3) of Title 8 of the United States
6 Code.

7 (H) Performing the functions of an immigration officer, whether
8 pursuant to Section 1357(g) of Title 8 of the United States Code
9 or any other law, regulation, or policy, whether formal or informal.

10 (2) Make agency or department databases, including databases
11 maintained for the agency or department by private vendors, or
12 the information therein other than information regarding an
13 individual's citizenship or immigration status, available to anyone
14 or any entity for the purpose of immigration enforcement. Any
15 agreements in existence on the date that this chapter becomes
16 operative that conflict with the terms of this paragraph are
17 terminated on that date. A person or entity provided access to
18 agency or department databases shall certify in writing that the
19 database will not be used for the purposes prohibited by this
20 section.

21 (3) Place peace officers under the supervision of federal agencies
22 or employ peace officers deputized as special federal officers or
23 special federal deputies except to the extent those peace officers
24 remain subject to California law governing conduct of peace
25 officers and the policies of the employing agency.

26 (4) Use federal immigration authorities as interpreters for law
27 enforcement matters relating to individuals in agency or department
28 custody.

29 (b) Nothing in this section shall prevent any California law
30 enforcement agency from doing any of the following:

31 (1) Responding to a request from federal immigration authorities
32 for information about a specific person's criminal history, including
33 previous criminal arrests, convictions, and similar criminal history
34 information accessed through the California Law Enforcement
35 Telecommunications System (CLETS), where otherwise permitted
36 by state law.

37 (2) Participating in a joint law enforcement task force, so long
38 as the purpose of the joint law enforcement task force is not
39 immigration enforcement, as defined in subdivision (f) of Section
40 7284.4.

(c) If a California law enforcement agency chooses to participate in a joint law enforcement task force, it shall submit a report every six months to the Department of Justice, as specified by the Attorney General. ~~Sensitive information, as determined by the Attorney General,~~ *The reporting agency or the Attorney General may determine a report, in whole or in part,* is not a public record for purposes of the California Public Records Act pursuant to subdivision (f) of Section 6254 ~~of the Government Code~~. *to prevent the disclosure of sensitive information, including, but not limited to, an ongoing operation or a confidential informant.*

(d) The Attorney General, within 14 months after the effective date of the act that added this section, and twice a year thereafter, shall report on the types and frequency of joint law enforcement task forces. The report shall include, for the reporting period, assessments on compliance with paragraph (2) of subdivision (b), a list of all California law enforcement agencies that participate in joint law enforcement task forces, a list of joint law enforcement task forces operating in the state and their purposes, the number of arrests made associated with joint law enforcement task forces for the violation of federal or state crimes, and the number of arrests made associated with joint law enforcement task forces for the purpose of immigration enforcement by all task force participants, including federal law enforcement agencies. The Attorney General shall post the reports required by this subdivision on the Attorney General's Internet Web site.

(e) Notwithstanding any other law, in no event shall a California law enforcement agency transfer an individual to federal immigration authorities for purposes of immigration enforcement or detain an individual at the request of federal immigration authorities for purposes of immigration enforcement absent a judicial warrant. This subdivision does not limit the scope of subdivision (a).

(f) This section does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

7284.8. The Attorney General, within three months after the effective date of the act that added this section, in consultation with the appropriate stakeholders, shall publish model policies

1 limiting assistance with immigration enforcement to the fullest
2 extent possible consistent with federal and state law at public
3 schools, health facilities operated by the state or a political
4 subdivision of the state, courthouses, Division of Labor Standards
5 Enforcement facilities, and shelters, and ensuring that they remain
6 safe and accessible to all California residents, regardless of
7 immigration status. All public schools, health facilities operated
8 by the state or a political subdivision of the state, and courthouses
9 shall implement the model policy, or an equivalent policy. All
10 other organizations and entities that provide services related to
11 physical or mental health and wellness, education, or access to
12 justice, including the University of California, are encouraged to
13 adopt the model policy.

14 7284.10. The provisions of this act are severable. If any
15 provision of this act or its application is held invalid, that invalidity
16 shall not affect other provisions or applications that can be given
17 effect without the invalid provision or application.

18 SEC. 2. Section 11369 of the Health and Safety Code is
19 repealed.

20 SEC. 3. Section 3058.10 is added to the Penal Code, to read:

21 3058.10. (a) The Board of Parole Hearings, with respect to
22 inmates sentenced pursuant to subdivision (b) of Section 1168, or
23 the Department of Corrections and Rehabilitation, with respect to
24 inmates sentenced pursuant to Section 1170, shall notify the Federal
25 Bureau of Investigation of the scheduled release on parole or
26 postrelease community supervision, or rerelease following a period
27 of confinement pursuant to a parole revocation without a new
28 commitment, of all persons confined to state prison serving a term
29 for the conviction of a violent felony listed in subdivision (c) of
30 Section 667.5.

31 (b) The notification shall be made at least 60 days prior to the
32 scheduled release date or as soon as practicable if notification
33 cannot be provided at least 60 days prior to release. The only
34 nonpublicly available personal information that the notification
35 may include is the name of the person who is scheduled to be
36 released and the scheduled date of release.

37 SEC. 4. Section 3058.11 is added to the Penal Code, to read:

38 3058.11. (a) Whenever any person confined to county jail is
39 serving a term for the conviction of a misdemeanor offense and
40 has a prior conviction for a violent felony listed in subdivision (c)

1 of Section 667.5 or has a prior felony conviction in another
2 jurisdiction for an offense that has all the elements of a violent
3 felony described in subdivision (c) of Section 667.5, the sheriff
4 may notify the Federal Bureau of Investigation of the scheduled
5 release of that person, provided that no local law or policy prohibits
6 the sharing of that information with either the Federal Bureau of
7 Investigation or federal immigration authorities.

8 (b) The notification may be made up to 60 days prior to the
9 scheduled release date. The only nonpublicly available personal
10 information that the notification may include is the name of the
11 person who is scheduled to be released and the scheduled date of
12 release.

13 SEC. 5. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.

18 SEC. 6. This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or safety within
20 the meaning of Article IV of the California Constitution and shall
21 go into immediate effect. The facts constituting the necessity are:

22 Because changes in federal immigration enforcement policies
23 require a statewide standard that clarifies the appropriate level of
24 cooperation between federal immigration enforcement agents and
25 state and local governments as soon as possible, it is necessary for
26 this measure to take effect immediately.